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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

EDWARD ALUN SKETCH

Group Art Unit: 3623

Examiner: Stephen Byleiw

Serial No.: 09/681,784

Filed: June 5, 2001

For: ONLINE METHOD AND SYSTEM FOR PROVIDING LEARNING
SOLUTIONS FOR THE ELIMINATION OF FUNCTIONAL COMPETENCY
GAPS

Attorney Docket No.: FMC 1339 PUSP (81048308)

TRANSMITTAL LETTER

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed with reference to the above matter are the following documents:

1. Amended Appeal Brief In Response To Notification Of Non-Compliant Appeal Brief;
2. Copy of Notification of Non-Compliant Appeal Brief.

The required fee has already been paid.

Respectfully submitted,

EDWARD ALUN SKETCH

By: 

Benjamin C. Stasa

Reg. No. 55,644

Attorney for Applicant

Date: July 14, 2006

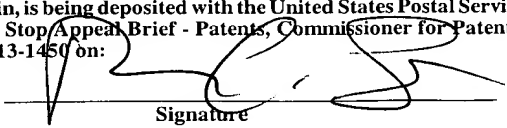
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July 14, 2006
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Benjamin C. Stasa
Name of Person Signing


Signature



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Group Art Unit: 3623

Examiner: Stephen Byleiw

Attorney Docket No.: FMC 1339 PUSP (81048308)

**AMENDED APPEAL BRIEF
IN RESPONSE TO NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF**

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant submits this Amended Appeal Brief in response to the Notification of Non-Compliant Appeal Brief dated July 6, 2006. Applicant believes that the following incorporates the changes as requested in the Notification, a copy of which is enclosed.

The Patent Office was previously instructed with the original submission to charge the fee of \$500 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2), as well as any additional fees or credits to Deposit Account 06-1510 (Ford Global Technologies, Inc.).

07/17/2006 CREDM1 00000001 061510 09681784

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July 14, 2006
Date of Deposit

Benjamin C. Stasa
Name of Person Signing

[Signature]
Signature

APPEAL BRIEF

This is an Appeal Brief from the final rejection of claims 1-20 of the Office Action mailed on January 4, 2006, for the above-identified patent application.

I. REAL PARTY IN INTEREST

The real party in interest is Ford Motor Company ("Assignee"), a corporation organized and existing under the laws of the state of Michigan, and having a place of business at The American Road, Dearborn, Michigan 48121, as set forth in the assignment recorded in the U.S. Patent and Trademark Office on June 5, 2001, Reel 011651/Frame 0402.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellant, the Appellant's legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-20 are pending in this application. Claims 1-20 have been rejected and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

None.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 recites a method for reducing a functional competency gap. (Page 6, lines 24-25). The method includes defining an employment function and preferred method of learning, (Pg. 6, line 28 - Pg. 7, line 8), and assessing functional competency based on the employment function via an online self-assessment, (Pg. 7, lines 9 - 17). The method also includes identifying at least one gap between an assessed functional competency and a predefined competency required for the employment function. (Pg. 8, line 23 - Pg. 9, line 7). The method further includes dynamically querying a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning. (Pg. 9, lines 8-23). The method still further includes automatically defining a development plan for the employee including learning solution identified with the dynamic query. (Pg. 9, lines 8-23).

Independent claim 15 recites an online system for identifying at least one learning solution to reduce a functional competency gap. (Pg. 14, line 14 - Pg. 15, line 12). The system receives input defining an employment function and preferred method of learning, (Pg. 6, line 28 - Pg. 7, line 8), and presents an interactive assessment of functional competency based on the employment function, (Pg. 7, lines 9 - 17). The system also identifies at least one gap between an assessed level of functional competency and a predefined level of competency required for the employment function. (Pg. 8, line 23 - Pg. 9, line 7). The system further dynamically queries a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning. (Pg. 9, lines 8-23; Pg. 15, line 32 - Pg. 16, line 9). The system still further automatically defines a development plan for the employee including learning solution identified with the dynamic query. (Pg. 9, lines 8-23).

Independent claim 20 recites a system for reducing a functional competency gap. (Pg. 14, line 14 - Pg. 15, line 12). The system includes a means for defining an employment function and preferred method of learning, (Pg. 6, line 28 - Pg. 7, line 8; Pg. 14, line 14 - Pg. 15, line 12), and a means for assessing functional competency for the employment function, (Pg. 7, lines 9 - 17; Pg. 14, line 14 - Pg. 15, line 12). The system also includes a means for identifying at least one gap between a functional competency assessment and a predefined level of functional competency required for the employment function. (Pg. 8, line 23 - Pg. 9, line 7; Pg. 14, line 14 - Pg. 15, line 12). The system further includes a means for dynamically querying a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning. (Pg. 9, lines 8-23; Pg. 15, line 32 - Pg. 16, line 9). The method still further includes automatically defining a development plan for the employee including learning solution identified with the dynamic query. (Pg. 9, lines 8-23).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner rejected claims 1-9, 13, 15-16, 18, and 20 under 35 U.S.C. 103(a) as being unpatentable over Saba Software Learning Management System from 1997-2000 (Saba Software) aspects of which are evidenced by, *inter alia*, the following references:

I. Saba Software web page from 6/21/2000: "Saba Learning Network, Enterprise Series," herein after referred to as Reference A.

II. Burriesci, J. "It's All About The Knowledge" Intelligent Enterprise, August 24, 1999, pages 10 and 12; herein after referred to as Reference B.

The Examiner rejected claims 10, 17, and 19 under 35 U.S.C. 103(a) as being unpatentable over the Saba Software as applied to claims 1-10 and 13, and in further view of Collegebytes.com (1999).

The Examiner rejected claims 11-12 and 14 under 35 U.S.C. 103(a) as being unpatentable over the Saba Software as applied to claims 1-10 and 13, and in further view of U.S. Pat. No. 6,591,246 (Tuttle).

VII. ARGUMENT

A. Claims 1, 15, and 20 are patentable over the Saba Software

Reference A and Reference B each fail to teach, disclose, or suggest that the Saba Software “automatically defin[es] a development plan for the employee including learning solution identified with the dynamic query” as claims 1, 15, and 20 each generally recite. Reference B indicates that the Saba Software “uses collaborative profiling to nonintrusively tailor lessons to individual learning styles, preferences, and knowledge . . . ,” (Reference B, Col. 1, line 41 - Col. 2, line 2), apparently once the user has already identified the “lesson.” Reference B does not indicate that the Saba Software automatically defines which “lessons” a user should undertake. Reference A indicates that the Saba Software “lets [a user] find offerings specific to [the user’s] industry, as well as offerings that are targeted for specific roles, certifications, and competencies.” (Reference A, lines 21-22). Reference A similarly does not indicate that the Saba Software automatically defines which “offerings” a user should undertake.

Examiner fails to establish a *prima facie* case that “it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to modify Saba Software to *dynamically* query a database of available learning solutions” As explained above, because Reference A and Reference B each fail to teach, disclose, or suggest that the Saba Software “automatically defin[es] a development plan for the employee including learning solution identified with the dynamic query” as claims 1, 15, and 20 each generally recite, there is no teaching or suggestion in Reference A or Reference B to modify the Saba Software to dynamically, *i.e.*, automatically, query a database of available learning solutions.

B. Claims 2-14 and 16-19 are patentable over the Saba Software

Claims 2-14 and 16-19 depend respectively from claims 1 and 15. For at least the reasons claims 1 and 15 are patentable as set forth above, claims 2-14 and 16-19 are patentable. Claims 2-14 and 16-19 have limitations beyond claims 1 and 15 respectively providing further reason that claims 2-14 and 16-19 are patentable.

C. Claims 10, 17, and 19 are patentable over the Saba Software in view of Collegebytes.com

Examiner's argument finding a motivation to combine the Saba Software with Collegebytes.com because they "are in the analogous art of providing products and services to students" cannot establish a *prima facie* case of obviousness. "There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." MPEP 2143.01. Examiner's argument effectively removes the motivation to combine requirement and allows any set of references to be combined by merely characterizing them as "analogous art."

D. Claims 11-12 and 14 are patentable over the Saba Software in view of Tuttle

Examiner's argument finding a motivation to combine the Saba Software with Tuttle because they "are analogous arts in the field of employee/workforce capability assessment and improvement" cannot establish a *prima facie* case of obviousness. "There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." MPEP 2143.01. As explained above, Examiner's argument effectively removes the motivation to combine requirement and allows any set of references to be combined by merely characterizing them as "analogous art."

The fee of \$500 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2), as well as any additional fees or credits, should be applied to Deposit Account 06-1510 (Ford Global Technologies, Inc.). A duplicate of this page is enclosed for this purpose.

Respectfully submitted,

EDWARD ALUN SKETCH

By: 

Benjamin C. Stasa
Registration No. 55,644
Attorney for Applicant

Date: July 14, 2006

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Enclosure - Appendices



VIII. CLAIMS APPENDIX

1. A method for reducing a functional competency gap, the method comprising:
defining an employment function and preferred method of learning;
assessing functional competency based on the employment function via an online self-assessment;
identifying at least one gap between an assessed functional competency and a predefined competency required for the employment function;
dynamically querying a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning; and
automatically defining a development plan for the employee including learning solution identified with the dynamic query.
2. The method of claim 1 wherein the at least one learning solution comprises classroom, software, online and on-the-job training learning activities.
3. The method of claim 1 additionally comprising completing a learning activity associated with the at least one learning solution.
4. The method of claim 3 additionally comprising evaluating the learning solution after completing the learning activity.
5. The method of claim 3 additionally comprising evaluating best practices for implementing the at least one learning solution within a business unit.
6. The method of claim 4 additionally comprising posting completed evaluations online for others to review.

7. The method of claim 5 additionally comprising identifying roadblocks to the implementation of the learning solution within a business unit.

8. The method of claim 3 additionally comprising completing an online examination after completing the learning solution to assess knowledge transfer during the learning activity.

9. The method of claim 4 additionally comprising mining evaluation data to identify and make learning solution improvements.

10. The method of claim 1 additionally comprising acquiring or selling learning solutions in an online auction format.

11. The method of claim 1 additionally comprising mining online assessment data to identify preferred functional competencies for new employees.

12. The method of claim 1 additionally comprising mining online assessment data to select current employees for a particular employment opportunity.

13. The method of claim 1 additionally comprising assessing functional competency for an employment function other than an employee's current employment function.

14. The method of claim 1 additionally comprising mining assessment data to select a group of employees having functional competencies necessary to perform a group-oriented task.

15. An online system for identifying at least one learning solution to reduce a functional competency gap, the system being configured to:

receive input defining an employment function and preferred method of learning;

present an interactive assessment of functional competency based on the employment function;

identify at least one gap between an assessed level of functional competency and a predefined level of competency required for the employment function;

dynamically query a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning; and

automatically define a development plan for the employee including learning solution identified with the dynamic query.

16. The system of claim 15 additionally configured to receive input defining: (i) interactive assessment content; (ii) learning solution content; and (iii) competency level requirements for the employment function.

17. The online system of claim 15 additionally configured to host an online auction for the sale or purchase of learning solution content.

18. The online system of claim 15 additionally configured to present an interactive learning solution.

19. The online system of claim 17 additionally configured to facilitate mining employment function, competency assessment, competency gap, and evaluation data.

20. A system for reducing a functional competency gap, the system comprising:

a means for defining an employment function and preferred method of learning;

a means for assessing functional competency for the employment function;

a means for identifying at least one gap between a functional competency assessment and a predefined level of functional competency required for the employment function;

a means for dynamically querying a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning; and

automatically defining a development plan for the employee including learning solution identified with the dynamic query.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.



UNITED STATES PATENT AND TRADEMARK OFFICE

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| 09/681,784 | 06/05/2001 | Edward Alun Sketch | 200-1320 DBK | 9107 |
| 28395 | 7590 | 07/06/2006 | Fmc 1339 PUSP | |
| BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238 | | | EXAMINER | |
| | | | ART UNIT | PAPER NUMBER |

DATE MAILED: 07/06/2006

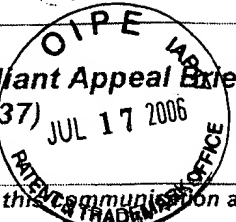
Due: 8-6-06

Please find below and/or attached an Office communication concerning this application or proceeding.

UPLOADED
2-11-06 cf.

US pro; no other corresp appn.

Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)



| | | |
|-------------------------------|-------------------------------------|--|
| Application No. 09/681,784 | Applicant(s) SKETCH, EDWARD ALUN | |
| Examiner Susanna M. Diaz | Art Unit 3623 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 05 June 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

A concise explanation of the subject matter defined in independent claim 15 (with reference to corresponding pages and lines in the specification) is required. A concise explanation of the subject matter defined in independent claim 20 (with reference to corresponding pages and lines in the specification) is required. Also, for claim 20, support from the specification for each means-plus-function limitation should be identified as well.

Susanna Diaz

Susanna M. Diaz
Primary Examiner
Art Unit. 3623